

Exhibit No. 6Date 3-9-09Bill No. SB 303

Testimony in Support of SB 303
Before the Senate Finance and Claims Committee
By Gerald Mueller
March 9, 2009

Chairman Bales and members of the Committee, my name is Gerald Mueller. I live at 440 Evans Avenue in Missoula.

I testify as a proponent of SB 303 assuming that it is amended as I will discuss below. I testify on behalf and at the direction of the Clark Fork River Basin Task Force (Task Force).

The Task Force is proof that the mechanism provided in SB303 for amending the state water plan can work. SB303 directs the Montana Department of Natural Resources and Conservation (DNRC) to develop and submit to the 2015 legislature sections of the state water plan for the state's major river basins that provide a "...progressive program for the conservation, development, and utilization of the state's water resources and propose the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses..." To develop these sections, DNRC must create and solicit recommendations for a council for each basin whose members are representative of all of the water interests in the basin.

The Task Force was created in 2001 pursuant to 85-2-350 MCA and charged with developing a water management plan for the Clark Fork River Basin that identified options to protect the security of water rights and provided for the orderly development and conservation of water in the future. By this same statute, members of the Task Force had to be appointed to be representative of the water interests and the sub-basins in the Clark Fork River basin. In 2004, the Task Force adopted and presented to the governor and the legislature the *Clark Fork Basin Watershed Management Plan*. The 11 chapters of the plan addressed: history and background; vision of water management in the Clark Fork River basin; watershed profiles, including physical water availability, existing appropriations, water available for future use, gaps in information and knowledge, and recommendations for closing the gaps; the legal framework for water management; legal and regulatory constraints to water management; hydropower water rights and basin water use; options to protect the security of water rights; strategies to promote the orderly development of water; options for conserving water; plan implementation; and recommendations and conclusions. The plan is available online at:

http://dnrc.mt.gov/wrd/water_mgmt/clarkforkbasin_taskforce/water_mgmt_plan.asp.

In January 2005, the DNRC amended the State Water Plan incorporating almost all of the *Clark Fork Basin Watershed Management Plan* into a separate section. See http://dnrc.mt.gov/wrd/water_mgmt/montana_state_waterplan/default.asp.

The Task Force is currently pursuing a long-term source of water for new consumptive uses in the basin and to increase the security of existing water rights. At the prompting of the Task Force, DNRC estimated how much water will be needed in the Clark Fork basin for additional consumption over the next 50 years. In 2005, at the request of the Task Force, the legislature passed House Joint Resolution 3 which urged the DNRC to enter into negotiations with the United States Bureau of Reclamation (USBOR) to determine the availability and cost of water stored

behind Hungry Horse Dam for which the State of Montana might contract to support future water development and existing water use in the Clark Fork River basin. In 2007, the Task Force sought and won approval of a \$260,000 appropriation by the legislature to DNRC to begin the process of contracting with the USBOR for water stored in Hungry Horse Reservoir. The Task Force also successfully sought a statutory change to the requirements for the state to lease water for beneficial purposes from large federal reservoirs. This change was necessary for the state to contract for Hungry Horse water and use it to meet water needs in the Clark Fork basin. The first step in the process for contracting for Hungry Horse water has only just begun.

So the direction in SB303 for the Clark Fork River basin, including the Flathead basin, has and continues to be addressed. A council, the Task Force, representative of the basin's water interests exists. Based on the *Clark Fork Basin Watershed Management Plan*, DNRC has recently amended the State Water Plan to provide for progressive program for the conservation, development, and utilization of the state's water resources in the Clark Fork.

Which brings me, to the amendments which should be made in SB303 before approving it. The amendments do two things. First, they remove separate references in the bill to the Flathead basin, including a separate council for the Flathead. Second, they clarify that for the Clark Fork basin, DNRC shall continue to utilize the Clark Fork River Task Force established pursuant to 85-2-350. A copy of the amendments is attached with this testimony.

The Task Force offers these amendments because the Flathead is part of the Clark Fork River basin and was specifically addressed in the *Clark Fork Basin Watershed Management Plan*. The Flathead River supplies over 50% of the flow in the Clark Fork River when the Clark Fork leaves the state. Flathead water supply issues cannot be considered separately from the rest of the Clark Fork basin. The Task Force currently has six out of fifteen members from the Flathead including representatives of the Flathead Conservation District, Flathead Basin Commission, Flathead Lakers (water quality), Joint Board of Control (irrigators), Flathead Building Association, and Liberty Drilling (KalisPELL well drilling firm). Senator Verdell Jackson, SD 5, is a ex officio member. 85-2-350(2) provides that the Confederated Salish and Kootenai tribal government has the right to appoint a representative to the Task Force. A complete listing of the Task Force members is also attached to this testimony.

The Task Force is seeking separate funding, \$37,500 annually, to continue its operations. Funding to implement SB303 should be coordinated with the Clark Fork Task Force's funding request for the coming biennium. Eliminating a redundant Flathead council may reduce funding required by SB303.

In conclusion, the Task Force supports the major purpose of SB303 - to ensure that the State Water Plan includes a progressive program for the conservation, development, and utilization of the state's water resources in each of the state's major basin. We simply ask that the bill incorporate the Task Force and its existing statutory mandate.

Thank you.

SB303 Amendments
Offered by the Clark Fork River Basin Task Force

Page 1, line 5 - Delete "Flathead"

ADDRESS VARIOUS WATER ISSUES WITHIN THE CLARK FORK, ~~FLATHEAD,~~ MISSOURI, AND

Page 1, lines 28 and 29 - Delete "Flathead"

(3) Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork, and Flathead river basins

Page 2, lines 11 and 12 -

(4) (a) The department shall create a water user council that is inclusive and representative of all water users and interests in each basin the Missouri and Yellowstone basins. For the Clark Fork basin, the department shall continue to utilize the Clark Fork River Task Force established pursuant to 85-2-350.

Clark Fork River Basin Task Force

Name	Organization	Area/Interest Represented
Marc Spratt	Flathead Conservation District	Flathead Basin above Flathead Lake
Nate Hall	Avista	Hydropower Utilities
Holly Franz	PPL Montana	Hydropower Utilities
Gail Patton	Sanders County Commissioner	Basin Local Governments
Arvid Hiller	Mountain Water Company	Municipal water companies and the Clark Fork River Watershed between the confluence of the Blackfoot River and the Clark Fork River and the confluence of the Clark Fork River and the Flathead River
Caryn Miske	Flathead Basin Commission	Flathead Lake
Ted Williams	Flathead Lakers	Flathead Lake
Steve Hughes	Joint Board of Control	Flathead River watershed below Flathead Lake to the confluence with the Clark Fork River
Jim Elliott		Lower Clark Fork watershed
Harvey Hackett	Bitter Root Water Forum	Bitterroot River watershed
Fred Lurie	Blackfoot Challenge	Blackfoot River watershed
Jim Dinsmore	Granite Conservation District & Upper Clark Fork River Basin Steering Committee	Upper Clark Fork River watershed
Brianna Randall	Clark Fork Coalition	Conservation/environmental organizations
George Culpepper, Jr.	Flathead Building Association	Building industry in the Valley and in Lake County
Bill Gardner	Liberty Drilling	Montana Water Well Drillers Association
Verdell Jackson, <i>Ex Officio</i>	State Representative	Senate District 5